

**REMARKS/ARGUMENTS**

Claims 1-5 remain in the subject application. Claims 1, 3 - 5 are amended, as recited hereinabove and claims 3 and 5 are now believed to be in proper form overcoming the rejections under 35 U.S.C. 112.

Claims 3 and 5 have been rejected under 35 U.S.C. 112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. As noted above, claims 3 and 5 have been amended to overcome the foregoing rejection and are now believed to be in proper form for allowance thereof. Claims 1-5 have been rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Swanson (5,276,425). Claims 1-5 have been also rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Lebizay (5,038,343).

On pages 2 and 3 of the Final Office Action, it appears that numbers relating to the references Swanson and Lebizay are plugged into an equation to form the basis of rejection. Obviously, knowledge of an equation and a determination as to whether numbers plugged into the equation satisfy the same, is a hindsight evaluation. That is, with all due respect, the selection of  $k'$  such that  $m \cdot Q(k'/m) \geq k$  is not what is suggested or hinted at by the cited references and merely satisfying an equation in one particular example with no regard to the recited selection cannot properly be the basis of a rejection.

On page 4 of the Final Office Action of December 14, 2004, it is suggested that only knowledge which was within the level of ordinary skill at the time of the claimed invention was made is being considered and reference to support such contention is made to Fig. 3 of Swanson and Fig. 5 of Lebizay. However, the latter references are not believed to suggest the selection of  $k'$ , as claimed.

Moreover, as recited in the claimed invention, each of the modules of the switching network is identical to the other; this is not believed to be suggested by either of the references, Swanson or Lebizay. Identical modules, among other advantages, allow for scalability of the switching network. Reconsideration and allowance of claims 1-5 is hereby respectfully requested.


Applicants submit that the subject application is now in condition for allowance and an early notice thereof is respectfully requested. Should any further amendment be required prior to passing the application to issue, the Examiner is respectfully invited to

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contact the undersigned by telephone at the number set out below.

Respectfully submitted,  
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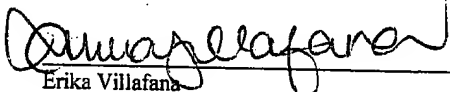
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I hereby certify that this correspondence with all attachments is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Arlington VA 22313-1450 on January 13, 2005 by Erika Villafana.

January 13, 2005

  
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